

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

OLACHI MEZU-NDUBUISI, an Individual)	
)	
Plaintiff,)	Case No.: 24-cv-6387-EAW
vs.)	
)	
UNIVERSITY OF ROCHESTER, et.al.)	
)	
)	
)	
Defendants.)	

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF HER MOTION TO SEAL EXHIBIT
AG IN THE PLAINTIFF'S MEMORANDUM IN SUPPORT OF RENEWED MOTION
FOR A PRELIMINARY INJUNCTION**

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INTRODUCTION

Plaintiff, respectfully seeks leave of the court to file this motion to seal Exhibit AG – Plaintiff’s September 14, 2024 response to Medical Executive Committee (“MEC”) that is attached to the memorandum in support of her renewed motion for a preliminary injunction. Plaintiff, Dr. Mezu-Ndubuisi is an Associate Professor with full tenure at University of Rochester, who was hired on July 1, 2022, and the only Black faculty and neonatologist in the Division of Neonatology of Nigerian national origin. Dr. Mezu-Ndubuisi was hired as a clinician-scientist to conduct laboratory, clinical, global health and translational research, including bench to bedside applications of research knowledge. On June 20, 2024, she filed an employment discrimination complaint against all the defendants, raising allegations under Title VII for racial discrimination, retaliation, disparate treatment, harassment/hostile and abusive work environment, Denial of Procedural Due Process, Breach of Contract, New York Executive Law §296, discriminatory retaliation (hereinafter “NYSHRL”).

On July 29, 2024, plaintiff filed an amended complaint alleging the same claims as in the original complaint and also included 42 U.S.C. §1981 claim. On August 12, 2024, the defendants filed a motion to dismiss the plaintiff's amended complaint arguing among other things that plaintiff had not presented any evidence to back up her racial discrimination claim, disparate treatment, Title VII retaliation, harassment/hostile and abusive work environment, retaliatory harassment and discrimination under New York Law, breach of contract, due process and 42 U.S.C. Section 1981 claims.

On August 14, 2024, plaintiff's motion for preliminary injunction was heard by the court where the defendants promised the judge that their Fair Hearing Process would address all of the plaintiff's claims. That plaintiff's application for injunction was dismissed without prejudice.

In a letter dated August 28, 2024, the defendants' Medical Executive Committee, without notice or an opportunity to be heard by Dr. Mezu-Ndubuisi, recommended a denial of her application for reappointment. On September 3, 2024, the plaintiff filed a response in opposition to the defendants' motion to dismiss her amended complaint.

Plaintiff timely requested a Fair Hearing challenging the MEC adverse action in her appeal dated September 14, 2024 – Exhibit AG which is one of the exhibits that was submitted in support of her memorandum for renewed motion for preliminary injunction sought to be filed under seal pursuant Rule 5.3 (c) of the Local Rules of Civil Procedure of the United States District Court for the Western District of New York and Health Insurance Portability and Accountability Act of 1996 (HIPAA).

ARGUMENTS

1. Good Cause Exists for this filing.

Exhibit AG - Dr. Mezu-Ndubuisi's September 14, 2024 response to Medical Executive Committee is the plaintiff's appeal of the unjust denial of her application for reappointment. The document contains CONFIDENTIAL, PRIVATE and SENSITIVE MEDICAL DATA OF PATIENTS, treatment information and plaintiff's private information. To comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the local rule 5.3, the exhibit needs to be filed under seal.

The exhibit is confidential and sensitive and is the plaintiff's detailed response to the defendants' MEC and the plaintiff's appeal and request for a Fair Hearing which is the subject of the plaintiff's renewed motion for preliminary injunction that is being filed at the same time.

2. Relevance

Exhibit AG is extremely relevant to the litigation and defense of the plaintiff's claims that she was wrongfully stopped from working. The Exhibit is relevant in refuting the false allegations that the defendants have leveled against the plaintiff in carrying out their discriminatory and retaliatory actions against her. The Exhibit is crucial to her response to the defendants' MEC and is her appeal for Fair Hearing which is the subject matter of the plaintiff's renewed motion for preliminary injunction that is being filed in conjunction with this motion to seal.

Conclusion

Plaintiff will be severely prejudiced if this crucial Exhibit is not sealed as it is the plaintiff's September 14, 2024 response to the Defendants' MEC and the plaintiff's request for a Fair Hearing which is the subject matter of the plaintiff's renewed motion for a preliminary injunction and is attached as an Exhibit to that motion. Her motion will be rendered

meaningless without this Exhibit. Additionally, private, medical information of patients and plaintiff's private information will be preserved.

Therefore, plaintiff respectfully requests that the Honorable Court enter the Proposed Order submitted concurrently with this motion.

Dated: November 24, 2024

Respectfully Submitted,

_____/s/C. Valerie Ibe, Esq. _____

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Admitted *Pro hac vice*
Attorney for Plaintiff, Olachi Mezu-Ndubuisi

CERTIFICATE OF SERVICE

I certify that on November 24, 2024, service of the foregoing and Exhibit AG were made to the defendants' counsel by email to: Thomas D'Antonio TDAntonio@hodgsonruss.com and to Claire Wells CWells@hodgsonruss.com.

_____/s/C. Valerie Ibe, Esq. _____

Law Offices of C. Valerie Ibe, Inc.
Attorney for Plaintiff, Dr. Mezu-Ndubuisi